



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### TIDEWATER REGIONAL OFFICE

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Secretary of Natural Resources

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## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO VIRGINIA ELECTRIC AND POWER COMPANY FOR DOMINION-CHESAPEAKE ENERGY CENTER**

**Registration No. 60163**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Virginia Electric and Power Company, d/b/a Dominion Virginia Power, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. “Dominion” means Virginia Electric and Power Company, d/b/a Dominion Virginia Power, a corporation authorized to do business in Virginia. Dominion is a “person” within the meaning of Va. Code § 10.1-1300.
6. “Facility” means the Dominion-Chesapeake Energy Center power station, including coal-fired Units 1-4, located at 2701 Vepco Street, Chesapeake, VA, that generated and supplied electrical energy to the grid.
7. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
9. “Permit” or “Title V Permit” means the Title V Federal Operating Permit to operate a Stationary Source of Air Pollution, which was issued under the Virginia Air Pollution Control Law and Regulations to Dominion for the Facility on March 24, 2009.
10. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
11. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
12. “Va. Code” means the Code of Virginia (1950), as amended.
13. “VAC” means the Virginia Administrative Code.
14. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*), of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Dominion owns and operates the energy center Facility located at 2701 Vepco Street in Chesapeake, Virginia.
2. The Facility is subject to the Permit which allows the operation of the Facility including four (4) coal-fired steam generators (Units 1-4). The Permit requires Dominion to submit quarterly Emissions, Opacity and Compliance Assurance Monitoring (“CAM”) reports (“Report”) to the Department. The Facility ceased operating on December 23, 2014, and is now being dismantled.

3. On October 29, 2014, Dominion submitted the Facility's 3<sup>rd</sup> Quarter 2014 Emissions, Opacity and CAM reports to DEQ. A review of the Reports indicated Dominion's compliance with the Permit.
4. Data from the Reports is uploaded to the U.S. Environmental Protection Agency ("USEPA") Clean Air Markets Division ("CAMD") statistical analysis program. Upon statistical review of the data submitted by Dominion, the CAMD questioned the validity of the sulfur dioxide ("SO<sub>2</sub>") data from Unit 4.
5. On March 31, 2015, Dominion re-submitted the Reports which invalidated SO<sub>2</sub> data from August 3, 2014 to August 18, 2014.
6. On March 31, 2015, Department staff conducted a review of the revised 3<sup>rd</sup> Quarter 2014 Report for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the review and follow-up information, Department staff made the following observations:

Valid sulfur dioxide emissions data was collected on 30 of 49 boiler operating days (61.2%) for Unit 4 during the 3<sup>rd</sup> Quarter of 2014
7. Condition III.B.4 of the Permit requires valid sulfur dioxide data to be collected for 95% of the boiler operating days in any one Quarter.
8. On June 26, 2015, based on the review of the revised 3<sup>rd</sup> Quarter of 2014 Report and follow-up information, the Department issued a Notice of Violation to Dominion for violations described in paragraphs C(3) through C(7), above.
9. On July 27, 2015, Dominion submitted a written response to the NOV. Reportedly, a leak located past the leak monitoring probe, invalidated sulfur dioxide data from August 3, 2014 to August 18, 2014 for Unit 4 of the Facility. The leak was discovered and repaired on August 18, 2015 during routine preventative maintenance.
10. On August 3, 2015, Department staff met with representatives of Dominion to discuss the violations, including Dominion's written response.
11. Based on the results of the March 31, 2014 record review, the letter from Dominion dated July 27, 2015 and follow-up information, the Board concludes that Dominion violated the Permit as described in paragraphs C(3) through C(7), above.
12. Based upon the information provided in the July 27, 2015 Dominion letter and the August 3, 2015 meeting, the violations described in paragraphs C(3) through C(7), above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders Dominion and Dominion agrees to pay a civil charge of \$8,778.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Dominion shall include its Federal Employer Identification Number (FEIN) 54-0418825 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dominion shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Dominion, for good cause shown by Dominion, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For the purposes of this Order and subsequent actions with respect to this Order only, Dominion admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Dominion consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dominion declares it has received fair and due process under the Administrative Process Act, Va. Code and the Virginia Air Pollution Control Law and it waives

the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Dominion to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Dominion does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dominion shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Dominion shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours and in writing within three business days, of learning of any condition above, which Dominion intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Dominion. Nevertheless, Dominion agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Dominion has completed all of the requirements of the Order;
  - b. Dominion petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dominion.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dominion from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Dominion and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Dominion certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dominion to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dominion.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dominion voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 21 day of September, 2015.

  
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Maria R. Nold, Regional Director  
Department of Environmental Quality

Virginia Electric and Power Company voluntarily agrees to the issuance of this Order.

Date: 9/15/15 By: [Signature], VP - Power Generation System Operations  
(Person) (Title)  
Virginia Electric and Power Company

**Commonwealth of Virginia**

City/County of Henrico

The foregoing document was signed and acknowledged before me this 16 day of September, 2015, by David Craymer, who is VP Pwr Gen. System Operations of Virginia Electric and Power Company on behalf of the corporation.

[Signature]  
Notary Public  
275525  
Registration No.

My commission expires: 10/31/16  
Notary Seal: